

Jury Committee
Judicial Conference of Indiana

November 15, 2002
Minutes

1. Members present. The following members of the committee were present: Craig Bobay, Kenneth Scheibenberger, Diane Kavadias Schneider, Sheila Carlisle, Michael Peyton, Earl Penrod, Mark McIntosh, John Pera, and Ernest Yelton, Chair
2. Staff present. Michelle C. Goodman provided the committee with staff assistance.
3. Approval of minutes. The committee approved the minutes from the October 11, 2002 meeting.
4. Grant Application Update. Michelle reported that the Byrne Grant application was filed on November 1st. The grant application for the juror orientation video also included the ability to use the video for the "Courts in the Classroom" program and the development of an exit survey was included in order to evaluate this project. The total amount applied for was \$65,612. The Criminal Justice Institute will review the application at their December meeting.
5. Orientation Sub-Committee Report. Judge Hughes submitted a written report to the committee. After the committee reviewed the report, Judge Yelton asked about the status of developing standards to present to the Board of Directors. Judge Scheibenberger stated the sub-committee had reviewed orientation tapes, made a list of the contents of the videos, and reviewed an outline prepared by Justice Dickson for Indiana Juror Orientation. Judge Scheibenberger indicated that guidelines would be developed from this information. Judge Yelton suggest that the Committee could recommend an approval of existing presentations and establish guidelines to the Board of Directors for 2003. Judge Yelton also stated that the sub-committee is still discussing whether to use the AJS video or to develop a new video. Judge Scheibenberger stated the Marion County Orientation distilled the AJS video well and included an introduction by the Chief Justice. The Committee requested to receive copies of the Marion County Orientation and the outline prepared by Justice Dickson for review. Judge Yelton suggested the sub-committee develop a final recommendation on existing orientations and overall orientation guidelines to present to the Board of Directors by December 3rd and that the Committee will continue to pursue the grant because of the expenses that are involved with this project.
6. Rule 2 Sub-Committee Report. Judge Pera reported that there are on going efforts to obtain the necessary information from NIPSCO, VECTREN, and Ameritech. The BMV is currently providing lists. Verizon provided information and will be charging for the lists. Michelle reported that there has not been any more information regarding the Department of Revenue. Judge Pera suggested establishing a central depository, either Indiana Judicial Center or JTAC, for companies to submit supplemental list once a year. There would need to be an agreement as to computer format for providing the list and the counties would be responsible for merging the data. This would decrease the burden on the companies. The Committee agreed that this idea should be explored and may be able to obtain grant funding to begin this process.

Michelle also reported to the Committee that she is researching a question from Judge Fred Hoying concerning the public access law and its effect on obtaining supplemental lists.

Judge Yelton brought to the Committee's attention comments received from Judge Jeffrey Boles and Judge Douglas Vanmiddlesworth concerning the Jury Rules. Judge Yelton also received a suggestion from Judge John Kellam to include a representative from the Clerk's Association on this sub-committee due to their questions to serve as a liaison. Judge Kellam suggested that Nanette Nidlinger, Adams County Clerk be contacted for this position. The Committee agreed that this would be appropriate and Judge Yelton will provide the contact information to Judge Pera.

7. Preliminary Instructions. Judge Yelton reported that he has discussed with Judge Horn and Judge Stinson creating a single instruction addressing juror questions and both were receptive to this proposal, but they asked for the Committee to prepare a draft to begin the process. Judge Kellam volunteered to assist the Committee with this project and Michelle provided the Committee with sample instructions from various sources.
8. Qualification, Exemption, and Deferral form. Judge Yelton distributed sample forms he received from Elkhart County. Judge Carlisle reported that in developing the form she and Judge Heffelfinger agreed to track the rules as much as possible with the goal of being juror friendly. Judge Carlisle noted that the qualification section followed Rule 5. As for the exemption section, Judge Carlisle stated that they did not want to list every exemption provided by statute in order to reduce problems that may arise when the people see the categories of exemptions and be more juror friendly. Judge Carlisle reported the deferral section was developed to track the language of the rules. The Committee discussed whether the language of the deferral section should be redrafted concerning the time in which a person could request a deferral (i.e. months, a certain date). The Committee determined that this was a recommended form and the courts would be able to adjust the language if necessary. The Committee also discussed adding a section to the form for the judge's approval in order to meet the documentation requirement. The Committee approved the format with the addition of an approval section. Judge Carlisle was asked to draft an approval section for the form and a letter to the judges explaining the form and the reasons for these recommendations. This is to be emailed to the Committee by December 3rd.

Judge Yelton raised the issue of deferrals and excuses. The Committee discussed whether the rules eliminated excuses or still within the discretion of the court and agreed to discuss this issue further in the future.

The Committee also briefly discussed the issue of jury service within the previous year as an exemption and a challenge for cause.

9. Draft Rule Amendments. Michelle presented to the Committee the Proposed Rule Amendment to Rule 1 concerning grand juries. Michelle explained that the proposed amendment was drafted two different ways so the Committee could decide on the most appropriate language. The first option clearly stated the rules that would apply to grand juries and the second used existing language in the rules to broadly outline the application to grand juries. Michelle explained that there are items in the grand jury statute that are not addressed by many of the rules (i.e. the specific oath, how proceedings are conducted, etc.) This is also the reason why Rule 11 was not included in the list because the focus of the orientations is geared toward petit jurors. The Committee passed a motion to accept the first option for amending Rule 1 concerning grand juries.

Michelle also presented the Proposed Rule Amendment to Rule 26 concerning final instructions. Judge Yelton explained that the direction of the Supreme Court in this area is unclear and asked whether the Committee wanted to include a statement to that effect to explain that the Committee drafted all the possible options into this proposal. The Committee agreed to present the proposed rule amendment as drafted.

10. Other Business. Judge Yelton raised an issue concerning whether an exception could be made under the rules for jurors who wish to serve more than one time. Rule 9 does not permit this as written. After a brief discussion, the Committee agreed to discuss this further in the future.

Judge Pera raised an issue concerning using power point or overheads when giving instructions to the jury instead of providing each juror with an individual copy due to the expense and administrative time involved. Judge Yelton suggested including a statement that a copy of the instructions also goes into the jury room if this method is permitted. The Committee decided to review this issue further.

Judge Yelton asked how the Committee wanted to respond to the questions being received. Michelle indicated that she had received a suggestion to set up a frequently asked questions section on the Committee web page. The Committee discussed how to address answering these questions and did not want to form another sub-committee. The Committee determined that Michelle could email out the questions to the Committee with proposed answers and then the questions and final answers from the Committee could be posted on the web page.

Judge Yelton raised an issue Michelle received concerning publications that include information on juries. The Committee discussed this issue and determined that the Committee will not be working on publications and it will remain the responsibility of the committees assigned to prepare these publications.

The Committee also discussed the need for a December meeting. The Committee felt that those items that needed to be completed before the Board of Directors meeting could be completed via email and cancelled the December meeting.

11. Meetings for 2003. The Committee set the following meetings for 2003:

Friday, January 10, 2003 at 11:00 a.m.
Friday, March 7, 2003 at 11:00 a.m.
Friday, May 9, 2003 at 11:00 a.m.
Friday, July 11, 2003 at 11:00 a.m.
Wednesday, September 10, 2003 at 10:00 a.m.
Friday, November 7, 2003 at 11:00 a.m.

12. Next Meeting. The next meeting is scheduled for Friday, January 10, 2003 at 11:00 a.m. at the Judicial Center.

Respectfully Submitted,

Michelle C. Goodman